

Chris Chapman,
Head of Planning,
Ofgem,
9 Millbank,
London SW1P 3GE

Your reference:

Our reference:

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Direct line : 020 7717 6241

Dear Chris

OFGEM PROPOSED CORPORATE STRATEGY (2004 – 2007)

Following Ofgem's invitation last year, the Health and Safety Executive (HSE) previously replied expressing its views on issues that it would like to see Ofgem address in its next three-year strategy. Now that this strategy has been published the HSE welcomes the opportunity to comment further.

As well as the seven priority themes identified for the next three years, the document also refers to an internal review of Ofgem to ensure delivery of the strategy and an encouragement to Ofgem staff to improve working methods. HSE has for some time stressed that this should include the need for both organisations, in their roles as government regulators, to continue to work closely together. HSE has also encouraged Ofgem to consider the implications of its policies on health and safety in the utility industries at an early stage of project development by carrying out suitable and sufficient risk assessments, seeking HSE's advice and support as and when necessary. It is noted that internal Project Initiation Document procedures have already been recently reviewed in this respect.

Improving Ofgem's Efficiency and Effectiveness

In addition to the above, the use of more widely circulated studies in the form of Regulatory Impact Assessments, part of Ofgem's approach to better regulation, will also be beneficial. Ofgem's commitment to producing such assessments, as outlined in the government's Energy White Paper, is welcomed, but these should ideally assess the impact on health and safety issues as well as the implications for the security of supply and the environment. We are pleased to see that this point of view has been highlighted in the strategy.

This section also outlines a desire to improve the transparency of consultation and produce clearer, more concise publications with implications for health and safety highlighted; this would certainly be welcomed.

Creating and Sustaining Competition

Wholesale markets

Ofgem have involved HSE in discussions on the new electricity trading and transmission arrangements (BETTA) from an early stage and this has been appreciated. HSE's current understanding is that a Safety Steering Group, which is a sub-committee of the System Operator and Transmission Owners Expert Group, will assess any impact on health and safety. HSE intends to liaise with Ofgem over the output of the Steering Group and the issues that arise. Similarly the work that the National Grid Company is undertaking with respect to any impact of BETTA on nuclear generation sites will be monitored.

Industry structures

HSE's concerns over the introduction of competition in the area of gas meter ownership have already been clearly expressed through the Technical Issues Sub-Group dealing with his project. HSE welcomes and supports the work of this group in addressing safety issues, including the independent risk assessment due to be completed shortly. HSE looks forward to seeing the findings from the risk assessment and in particular issues concerning ownership and control of the regulator. HSE looks to Ofgem to implement any resulting recommendations before the 'go live' date for the programme in June 2004.

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For both gas and electricity metering liberalisation HSE believes there should be a focus on clarification of the roles of the increasing number of parties involved in the market. The responsibilities of meter ownership, guidelines on the approval of contractors and the standards of work and competence of operatives are important requirements that need to be defined and maintained.

The HSE recognises that the sale of one or more of National Grid Transco's regional distribution networks is a significant undertaking that will require the commitment of appreciable resource from both HSE and Ofgem. We understand that any sale will first require Ofgem's approval, but it will also require acceptance by the HSE of the revisions to Transco's gas conveyor and network emergency co-ordinator safety cases under the Gas Safety (Management) Regulations 1996. Any future operators of the networks will similarly have to prepare safety cases for HSE acceptance and independent gas conveyors connected to the networks may need to submit revisions. All of these cases require HSE to be satisfied that existing levels of safety are not compromised, particularly in the areas of public safety, security of supply and emergency service provision. HSE has an established dialogue with both Ofgem and Transco over this issue and this will need to be maintained as the project develops.

Regulating Network Monopolies

The HSE appreciates one of Ofgem's principle remits is to introduce and maintain competition in the utility industries to maximise the benefit to customers. In respect of electricity supplies, this includes offering incentives to operators to maintain the quality of supply and minimise the number and duration of interruptions. Ofgem and HSE have previously agreed a response, issued both internally and publicly, to address industry concerns over the potential imposition of penalties for such interruptions, outlining that any failure to meet supply targets should not be a justification by operators for live working on electrical systems. The requirements relating to live working remain those clearly laid down in the Electricity at Work Regulations 1989. Equally, we expect Ofgem in the current price control review, in its assessment of the need for additional measures of output service performance, to continue to take account of the need to isolate systems for safety purposes (e.g. routine and unplanned maintenance). Companies should also be encouraged to outline such requirements in their submissions.

We believe that performance targets should be set with reference to companies' proposals for capital expenditure for work that is directly or indirectly related to improving safety levels (e.g. network reliability and resilience). This is in line with Ofgem's intention to introduce incentives to encourage electricity distribution companies to improve supply performance in the event of severe weather. The above-agreed response also makes reference to this, outlining that not only can submissions be made at each five-year price review, but also in intervening years if unexpected requirements arise.

Security of Britain's Energy Supplies

HSE agrees that the security of energy supplies is of central importance and a key priority not only for Ofgem but also for HSE and National Grid Transco and dialogue between all three parties remains important. The strategy refers to the need to bring mothballed generation back on stream (electricity) and to invest in storage facilities (gas) to achieve this, but the operation of systems relating to supply during winter months, as outlined in the Winter Operations Report, is also important. Transco has a duty under their safety case, in accordance with health and safety legislation, to meet the 1 in 50 security standard. This could mean a change in the level of gas storage and higher levels of gas availability from producers. The potential effect on electricity supply due to the level of gas fired power generation is also significant. All of these issues and concerns come under the remit of the Joint Energy Security of Supply Working Group, which HSE supports and recognises as an important part of Ofgem's work. These concerns have led to Ofgem's intention to influence European Member States such that effective access to continental energy supplies is ensured and this will become an increasing priority as UK resources diminish and reliance on gas imports increases.

Helping Protect the Environment

Ofgem has identified the need for companies to devote significant resources and investment to accommodate and meet the challenges of the expected growth in renewable and distributed generation. Ofgem, through the work of the Distributed Generation Co-ordination Group and the Technical Steering Group, are looking to companies to do so in an efficient manner in order to meet government targets for both renewables and reduced carbon dioxide emissions. The introduction of change to the networks must also be carried out in a safe manner. We are aware that assessments and tests are being carried out on new equipment and technology in relation to their incorporation within existing systems and HSE expects this process to continue. Clear guidelines on the systems governing connection to the networks and their operation alongside conventional electricity generation and supply will also need to be defined.

This represents an outline of HSE's views on the three-year strategy, which we hope will be taken into consideration prior to the issue of the final plan in March. It is noted that a draft Corporate Plan will accompany publication of the final document, which will also be a useful tool for future liaison.

Yours faithfully

Mike Leppard
Policy adviser